REMARKS

The abstract has been revised to conform more closely to the claims as revised here.

For the reasons presented below, Claims 41, 57, 67, 84, 86, 89, and 92 have been amended and Claims 61, 83, 85, 87, 88, 90, and 91 have been canceled. Accordingly, Claims 41 - 60, 62 - 82, 84, 86, 89, and 92 are now pending.

Beginning with the prior art rejections, Claims 41 - 52, 55 - 60, 62 - 75, and 78 - 86 have again been rejected under 35 USC 103(a) as obvious based on Okada et al. ("Okada"), U.S. Patent 5,668,601, in view of Maturi et al. ("Maturi"), U.S. Patent 5,559,999. Claims 53, 54, 76, and 77 have again been rejected under 35 USC 103(a) as obvious based on Okada and Maturi in view of Nuber et al. ("Nuber"), U.S. Patent 5,703,877. Claims 61 and 87 have been rejected under 35 USC 103(a) as obvious based on Okada and Maturi in view of Terashima et al. ("Terashima"), U.S. Patent 6,163,647. These rejections are respectfully traversed in view of the revisions to the claims.

Claims 88 - 92 have been indicated as allowable if rewritten in independent form.

Independent Claim 41 has been amended to include the further limitations of Claims 87 and 88, now canceled, which respectively depended (directly) from Claims 41 and 87. Accordingly, Claim 41 now constitutes Claim 88 rewritten in independent form. In revising Claim 41, the "data buffer" introduced in the prior version of Claim 41 and the "additional data buffer" introduced in Claim 87 have been respectively renamed the "first data buffer" and the "second data buffer" to avoid unclarity as to what is meant in dependent Claim 57 by "the data buffer", now changed there to "the first data buffer", since Claim 57 depends from Claim 41. Inasmuch as (a) Claim 88 has been indicated as allowable if rewritten in independent form and (b) Claim 41 now constitutes Claim 88 rewritten in independent form, Claim 41 is now allowable.

Claims 42 - 60 and 62 - 66 all depend (directly or indirectly) from Claim 41. Claim 89, which previously depended from Claim 88, has been amended to depend from Claim 41. Claim 84 previously depended from Claim 83 which depended from Claim 41 and recited substantially the same further limitation as Claim 89. To avoid redundancy in the claims depending from Claim 41, Claim 83 has been canceled, and Claim 84 has been amended to depend from Claim 89 since it recites substantially the same further limitation as canceled

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Claim 83. Claim 61 has been canceled for the same reason. Inasmuch as independent Claim 41 is now allowable, Claims 42 - 60, 84, and 89 are allowable due to their dependence (directly or indirectly) from Claim 41.

Independent Claim 67 has been amended to include the further limitation of Claim 91, now canceled, which depended (directly) from Claim 67. Accordingly, Claim 67 now constitutes Claim 91 rewritten in independent form. Inasmuch as Claim 91 has been indicated as allowable if rewritten in independent form, Claim 67 is now allowable.

Claims 68 - 82 all depend (directly or indirectly) from Claim 67. Claim 92, which previously depended from Claim 91, has been amended to depend from Claim 67. Claim 86 previously depended from Claim 85 which depended from Claim 67 and recited substantially the same further limitation as Claim 92. To avoid redundancy in the claims depending from Claim 67, Claim 85 has been canceled, and Claim 86 has been amended to depend from Claim 92 since it recites substantially the same further limitation as canceled Claim 85. Inasmuch as independent Claim 67 is now allowable, Claims 68 - 82, 86, and 92 are allowable due to their dependence (directly or indirectly) from Claim 67.

Turning to the objections to the amendments to the specification, the assertion from prior office actions that "The amendment filed 12/10/03, 12/23/03 and 2/11/04 are objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure" is repeated on page 2 of the present Office Action. By the "amendment filed 12/10/03, 12/23/03 and 2/11/04", Applicants' Attorney again assumes that the Examiner means (a) the Amendment submitted 10 December 2003, (b) the Supplemental Amendment submitted 23 December 2003, and (c) the Amendment submitted 11 February 2004 for revising the text, and does not include the further Amendment submitted 11 February 2004 for revising the drawings since that Amendment to Drawings does not present any revision(s) to the specification. Subject to this assumption, the objection to the 10 December 2003 Amendment, the 23 December 2003 Supplemental Amendment, and the 11 February 2004 Amendment to Text as introducing new matter into the disclosure is once again respectfully traversed.

On page 2 of present Office Action, the Examiner again alleges that deletion of the material "which is typically a first in first or (FIFO) buffer" at lines 4 and 5 on page 7 of the specification introduces new matter into the disclosure. Presumably the Examiner again means the last clause of the sentence "SD 26 demultiplexes and depacketizes the data stream,

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storing the demultiplexed compressed audio and video data in data buffer 48, which is typically a First-In-First-Out (FIFO) buffer" in the paragraph bridging pages 6 and 7 of the specification.

On page 10 of the Amendment submitted 13 January 2006, Applicants' Attorney again pointed out that data buffer 48 cannot actually be a FIFO buffer (in hardware) despite the disclosure in the specification that "SD 26 demultiplexes and depacketizes the data stream, storing the demultiplexed compressed audio and video data in data buffer 48, which is typically a First-In-First-Out (FIFO) buffer". Instead of repeating the prior explanation as to why buffer 48 cannot be a FIFO, the Examiner is again simply referred to page 2 of the Response submitted 1 July 2005 and the earlier material referred to there.

Applicants' Attorney then repeated the following additional remarks presented on page 10 of the Amendment submitted 27 July 2005:

> On page 3 of the 1 July 2005 Response, Applicants' Attorney pointed to the holding of Ex parte Brodbeck (PTOBA 1977) 199 USPQ 230 that correcting a technical error in a utility U.S. patent application does not introduce new matter if a person skilled in the relevant art would appreciate not only the existence of the error but what the error is. Skilled-artisan affidavit evidence was utilized in Brodbeck to explain why the language at issue was erroneous and how it should be corrected in light of the knowledge of a person skilled in the art.

> A declaration of Alin Theodor Iacob, a person of high skill in the semiconductor memory art, accompanied the 1 July 2005 Response to show that persons skilled in the art would recognize that buffer 48 in the specification of the present application is not actually a FIFO or a FIFO buffer. The procedure employed in Brodbeck to correct an error in a U.S. patent application has thus been followed in the present application. In accordance with Brodbeck and In re Oda et al. (CCPA 1971) 170 USPQ 268 cited as authority in Brodbeck, deletion of the material "which is typically a first in first or (FIFO) buffer" at lines 4 and 5 on page 7 of the specification corrects an error that would be readily recognized by persons skilled in the relevant art and does not introduce new matter into the specification.

> In regard to the Iacob declaration, the Examiner states on page 2 of the 14 July 2005 Advisory Action that "In reply, please see the final office action Para 6". Paragraph 6, page 6, of the 27 April 2005 Office action states that deletion of the material "which is typically a first in first or (FIFO) buffer" at lines 4 and 5 on page 7 of the specification "is a new matter because the applicant defined the buffer which is a FIFO buffer" and that "The applicant can not delete it in order to modify the scope of the specification". This, however, is not the law for the present situation.

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Repeating what was stated above, a technical error in a U.S. patent application can, in accordance with <u>Brodbeck</u> and <u>Oda</u>, be corrected by presenting skilled-artisan evidence to show why the technical language is incorrect and how it should be corrected in light of the knowledge of a person skilled in the art. Since such a showing has been made in the present application, the objection to deletion of the material "which is typically a first in first or (FIFO) buffer" at lines 4 and 5 on page 7 of the specification as introducing new matter into the disclosure of the invention has been overcome.

Responsive to the preceding remarks, the Examiner asserts on pages 6 and 7 of the present Office Action that:

> In response to pages 10-14, the applicant states that the deleted of " which is typically a First-In-First-Out (FIFO) buffer is not new matter because it is a terminology error by the person(s) who prepared the present application by submitting the case laws such 199 USPQ 230 which is stated that changing the wording of a sentence is not new matter as long as the meaning of the sentence is not changed and 170 USPQ 268 which is states the application which is translated from Japanese to English which contains some errors "nitric acid" vs. "nitrous acid; "ferrous oxide" vs. "iron" and replacing iron with reduce agent where reduce agent is defined iron. Therefore, the applicant of the application of theses case law can correct these errors. These two cases do not states that the applicant can correct the errors in order to change the scope of the invention. In this case, the applicant defined the buffer being a FIFO buffer which has a different function than RAM, DRAM or other buffers because the FIFO buffer requires the read function to read the head of the line before reading the second and the other buffer does not require the head of the line to be read out before the second. For example, Okada and Maturi use the FIFO buffer for storing audio and video data. Therefore, the applicant can not delete it in order to modify the scope of the specification for present a different or preferred form of the invention because the FIFO has a different read function than other buffers.

Aside from changing "pages 9-10" to "pages 10-14", the first three sentences of this assertion (up to the sentence beginning "In this case") are identical to the first three sentences of the assertion made by the Examiner on pages 6 and 7 of the Office Action mailed 14 October 2005. On pages 12 - 15 of the 13 January 2006 Amendment, Applicants' Attorney responded to the first three sentences of this assertion. In brief, Applicants' Attorney mentioned that <u>Brodbeck</u> and <u>Oda</u> both hold that correcting a technical error in a utility U.S. patent application does <u>not</u> introduce new matter into the application if a person skilled in the relevant art would recognize the error and how it should be corrected.

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The remainder of the Examiner's assertion is the same as the remainder of the Examiner's assertion on pages 6 and 7 of the 14 October 2005 Office Action except for the Examiner's new comments relating to memory read functions and the reference to Okada and Maturi as using FIFOs for storing audio and video data. As to the Examiner's comments dealing with memory read functions, a FIFO is a memory in which data first written into the memory is first read out of the memory. The order in which data is read out of a FIFO is identical to the order in which data is written into the FIFO. See Floyd, Digital Fundamentals (5th ed., Prentice-Hall), 1994, pages 587 - 589, copy provided with the Response submitted 1 July 2005.

If the Examiner's comment that "the FIFO buffer requires the read function to read the head of the line before reading the second and the other buffer does not require the head of the line to be read out before the second" means that the order for reading data out of a FIFO is identical to the order for writing data into a FIFO, the Examiner is correctly characterizing a FIFO. If not, the Examiner may be confusing the FIFO type of memory with some other type of memory. In either case, the Examiner's comment that "the FIFO buffer requires the read function to read the head of the line before reading the second and the other buffer does not require the head of the line to be read out before the second" is immaterial to correcting the erroneous designation of buffer 48 as a "FIFO" at lines 4 and 5 on page 7 of the specification.

Likewise, the fact that Okada and Maturi use FIFOs for storing audio and video data is immaterial to the erroneous specification designation of data buffer 48 as a "FIFO". Buffer 48 consists of thirty-two separate sub-buffers as stated on page 20 of the specification. As in Okada and Maturi, certain of the separate sub-buffers in buffer 48 necessarily function as FIFOs (due either to their hardware configuration or the software used to operate them) for which the order of the data read out of each FIFO is identical to the order of the data written into that FIFO.

Even if all the thirty-two separate sub-buffers in data buffer 48 function as FIFOs, the various writing of data into, and reading data out of, the sub-buffers necessarily causes the order in which data is read out of buffer 48 to differ at some places from the order in which data is written into buffer 48. Hence, buffer 48 does not meet the FIFO requirement that the order in which data is read out of a FIFO be identical to the order in which data is written

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into the FIFO. Buffer 48 <u>cannot</u> be a FIFO despite how buffer 48 is so described at lines 4 and 5 on page 7 of the specification.

Additionally, page 6 of the specification discloses that data buffer 48 has thirty-two different addressable locations. In view of the disclosure on page 20 of the specification that buffer 48 consists of thirty-two separate sub-buffers, the presence of thirty-two different addressable locations for buffer 48 means that there is a different addressable location for each of the sub-buffers in buffer 48.

A FIFO has only a single location at which data is written in and a single location at which data is read out. These two locations for a FIFO are typically viewed as a single addressable location. The disclosure at specification page 6 that buffer 48 has thirty-two different addressable locations further shows that buffer 48 is <u>not</u> actually a FIFO[1].

Applicants' Attorney has demonstrated that the material characterizing data buffer 48 as a FIFO at lines 4 and 5 on page 7 of the specification of the above application is a technical error. <u>Skilled-artisan evidence</u> in the form of the Iacob declaration has been presented to show that buffer 48 is not a FIFO and that a person skilled in the relevant art would recognize that buffer 48 is not a FIFO. The standard prescribed in <u>Brodbeck</u> and <u>Oda</u> for correcting a technical error in a U.S. patent specification has been met here.

Inasmuch as data buffer 48 is not a FIFO, deletion of the reference at lines 4 and 5 on page 7 of the specification to buffer 48 as a FIFO <u>cannot</u> broaden the specification. The Examiner's allegation that the specification would be broadened by deleting that reference to buffer 48 as a FIFO is erroneous. To the extent that the Examiner may previously have had any justification for objecting to the 10 December 2003 Amendment, the 23 December 2003 Supplemental Amendment, and the 11 February 2004 Amendment to Text on the grounds that deletion of the material "which is typically a first in first or (FIFO) buffer" at lines 4 and 5 on page 7 of the specification introduces new matter into the disclosure, that justification is <u>no</u> longer present. The objection to deletion of the material "which is typically a first in first

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[1] If, arguendo, the location at which data is written into a FIFO and the location at which data is read out of the FIFO were viewed as separate addressable locations, the FIFO would have only two addressable locations. A FIFO could then not have more than two addressable locations. In particular, a FIFO could not have thirty-two different addressable locations as specified for data buffer 48 on page 6 of the specification. Once again, buffer 48 is not, and cannot be, a FIFO.

or (FIFO) buffer" at lines 4 and 5 on page 7 of the specification as introducing new matter into the disclosure is now to be withdrawn.

The Examiner further alleges on page 2 of the present Office Action that substitution of the term "buffer" for "FIFO" at page 7, line 7, page 10, lines 12, 26, and 27, page 11, line 30, and page 23, lines 29 and 30, introduces new matter into the disclosure. These changes involve buffer 48. That is, "FIFO 48" has been changed to "buffer 48" at the foregoing places in the specification.

Changing "FIFO" to "buffer" at the indicated places in the specification completes the correction of an error which is clear from other disclosure in the specification and which would be readily recognized by persons skilled in the relevant art for the reasons discussed above. As with the first-mentioned new-matter objection, submission of the Iacob declaration meets the standard prescribed in <u>Brodbeck</u> and <u>Oda</u> for overcoming this further objection[2].

Repeating what was said in prior amendments and responses to office actions for the above application, the net result is that none of the objected-to material introduces new matter into the disclosure. There are <u>no</u> legitimate grounds for the continued objection to deletion of any of the indicated material as introducing new matter into the disclosure. The 35 USC 132 objection to the 10 December 2003 Amendment, the 23 December 2003 Supplemental Amendment, and the 11 February 2004 Amendment to Text as introducing new matter into the specification needs to be withdrawn.

In summary, the 35 USC 132 new-matter objection to the specification should be withdrawn. The subject matter of Claims 87, 88, and 91, now canceled but indicated as containing allowable subject matter, has been appropriately incorporated into independent Claims 41 and 67 so that Claims 41 - 60, 62 - 82, 84, 86, 89, and 92 are allowable. Accordingly, Claims 41 - 60, 62 - 82, 84, 86, 89, and 92 should be allowed so that the application may proceed to issue.

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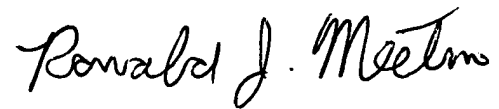Tel.: 650-964-9767
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[2] Data buffer 48 implements the first data buffer recited in the claims. However, none of the claims relies on the first data buffer not being a FIFO. Consequently, withdrawal of the 35 USC 132 new-matter objection to the specification will not broaden any of the claims.

Please telephone Attorney for Applicant(s) at 650-964-9767 if there are any questions.

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